SBCivil Writ Petition No.2844/2006

Bastimal
v.
Vasu Dev & Ors.

Date of Order :: 29th May, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Ranjeet Joshi, for the petitioner.

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The Civil Judge (SD) Pali by judgment dated 30.8.2005 while accepting the suit preferred by the plaintiff respondent passed a decree for eviction and for payment of mesne profit with cost against the petitioner. The suit was decreed by accepting bonafide necessity of the plaintiff and also comparative hardship in favour of the plaintiff. The validity of judgment and decree referred above was assailed by the petitioner defendant by way of filing an appeal before learned District Judge, Pali and that came to be rejected by judgment dated 15.2.2006. The District Judge after considering entire material available on record affirmed the findings given by the trial court.

By the instant petition for writ the petitioner has given challenge to the judgment dated 15.2.2006 passed by learned District Judge, Pali and the judgment and decree dated 30.8.2005 passed by learned trial court.

While giving challenge to the judgment and decree impugned it is urged by counsel for the petitioner that the appellate court failed to appreciate the evidence available in correct prospective. Counsel for the petitioner has also urged that the issues decided by the trial court against the defendant petitioner have also not been properly considered by the appellate court and no specific finding in this regard is given.

I have given thoughtful consideration to the contentions so raised and also examined the judgments impugned.

The trial court considered the entire material available on record and gave specific finding to every issue. The appellate court also considered the issues decided against the petitioner defendant thoroughly and also taken into consideration the entire evidence available on record. I do not find any error in the judgments impugned to interfere with the concurrent findings of the courts below under Article 227 of the Constitution of India.

The writ petition, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.